



Approved:  
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PORT AND SOLID WASTE DIRECTOR

## PROCEEDINGS OF THE BROWN COUNTY HARBOR COMMISSION

A meeting was held on Thursday, **November 19, 2009**, 11:30am., at Holiday Inn – City Centre, Green Bay, WI. The meeting was officially called to order by President McKloskey at 11:30am.

1. Roll Call:

Present: President Neil McKloskey  
Vice-President Tom Van Drasek  
Commissioner Hank Wallace  
Commissioner Bill Martens (left at 1:15pm)  
Commissioner John Hanitz  
Commissioner Ron Antonneau (arrived at 1:40pm)

Excused: Commissioner Craig Dickman  
Commissioner John Gower  
Commissioner Bernie Erickson

Also Present: Dean Haen, Brown County Port & Solid Waste

2. Approval/Modification – Meeting Agenda

**A motion was made by Bill Martens and seconded by Hank Wallace to approve the agenda with the modification that Agenda Item #5 “Navigational Dredging Concerns Related to Fox River Clean-up Project” be discussed after Agenda Item #11 “Tonnage Report”. (Commissioner Martens noted a conflict of interest since he is a former employee of one of the parties involved in the cleanup.)** Unanimously approved.

3. Approval/Modification – October 12, 2009 Meeting Minutes

**A motion to approve the October 12, 2009 meeting minutes was made by Hank Wallace and seconded by Tom Van Drasek.** Unanimously approved. (Commissioner Martens abstained from voting since he was not in attendance at said meeting.)

4. Communication from Vice-President Van Drasek & Strategic Plan Subcommittee – Update

Commissioner Van Drasek stated the subcommittee did not meet last month and therefore no additional changes, additions and/or corrections have been made to the Plan. Van Drasek requested Board members consider joining committees related to economic growth in an effort to raise the Port's visibility. A list of possible committees was provided to the Commission. Neil McKloskey and Dean Haen are on the Planning Task Force for the County Waterfront Study. Tom VanDrasek is on the Public Policy Council at the Green Bay Chamber of Commerce and is attempting to get on one of the committees at New North. Ron Antonneau is on the Convention & Visitors Bureau and also the Good Government Council. The Commission discussed ways to promote the Port and port-related business especially since most committees nowadays seem to focus mainly on trails, green spaces, etc. A stakeholder list has been sent to the Aaron Schuette, Brown County Planning Department as well as a list of everyone receiving the Port newsletter. The next meeting for the Strategic Plan Subcommittee will be December 7<sup>th</sup> at 9am.

6. Foreign Trade Zone General Zone Activity Request – Update

Previously Thill Logistics, Neenah, requested use of the Foreign Trade Zone (FTZ) for a facility on Leicht's property. Due to some issues with the Leicht's property, Thill Logistics has acquired a building from Kimberly Clark in Neenah and is now requesting this property be made part of the general zone. Eventually this property will be moved to a subzone but due to time constraints, the general zone will be applied for at this time as it is a faster process. The general zone application does require that comparable property be removed from the FTZ in return for the new property. Since the

general zone around Whitman Field in Oshkosh has had no development, the required acreage will be taken from this area. The boundaries of the FTZ are the state boundaries. The FTZ in Milwaukee has no activities and is currently for sale. Madison has a FTZ around their airport. Brown County has been developing a FTZ statewide and currently has an application in for Marinette Marine in Marinette and GE Gas & Electric near Milwaukee. Brown County also has general zones in Green Bay and Oshkosh and now Neenah; subzones in Hudson, Osceola and Plymouth. Every general zone or subzone activity results in approximately \$10,000 annually to the Port.

7. 217 Budget Transfer, (Carolyn Maricque, BC Finance Director) – Request for Approval

Manager Haen and Carolyn Maricque, Brown County Finance Director, provided explanations and answers to questions raised at last month's Harbor Commission meeting regarding accounting errors made over the last eight years. A memo was included in the agenda packet outlining the discrepancies. Maricque explained that with the new financial system recently implemented by Brown County, the balance sheets for the Port Department and the Solid Waste Department were separated and in doing so, the following variances were noted:

2001	(\$98,699)	217 Agreement (USACE). <i>Although the Agreement was signed in June 2001, the tipping fee was not collected until 2002 which left a \$98,000 deficit for 2001.</i>
2002	(\$7331)	Transfer of funds was based off the 217 Agreement administrative costs rather than recouping all of the Port's losses.
2004	(\$47,783)	Additional expenditures incurred and posted the following year.
2007	(\$157,907)	Property purchase from the City of Green Bay. <i>Paid from the Property Acquisition Fund (217), but shown as additional income to the port on the income statement.</i>
2008	(\$156,864)	Legal fees. <i>Exact amount not known at year end so staff transferred an estimated amount.</i>

As of the end of 2008, the Port deficit totals \$452,000.

Staff indicated that although audits are done annually, they do not always go into the specifics of the agreements, as well as the fact that the audit is done for the Port & Solid Waste Department as a whole. The revenues and expenses were recorded, however, the cash deficit was not illustrated because of how the balance sheets were laid out. Manager Haen assured the Commission he thoroughly reviewed everything to ensure that all items were properly credited to the Port. Haen indicated he accepts the costs as real and it is his recommendation to transfer money from Port to Solid Waste to make the Solid Waste Department whole.

The Commission discussed interdepartmental chargebacks as well as departmental chargebacks and suggested that perhaps these numbers should be reviewed by an outside accountant. Staff stated they did not feel the numbers would change but it may give the Commission peace of mind. When asked if the County has a formula for chargebacks, staff indicated that a cost assessment is done annually by an outside firm annually. Departmental charges from Solid Waste average around \$40,000 annually.

Staff noted that at the November Solid Waste Board meeting, charging the Port interest was discussed which prompted the Harbor Commission to mention interest in a possible lawsuit. Staff assured the Commission that the funds are in the 217 Agreement fund and were simply not allocated over the past eight years to the proper fund accounts.

The Commission discussed in great detail how to proceed on repayment, if any, of the \$452,000. The Commission felt a reasonable option would be to repay the last two years stating that the error in 2007 was an accounting technique mistake on the part of Port staff and in 2008 a conscious decision was made to only transfer an estimate to the Fox River litigations bills which continuing to accrue at \$30,000 to \$40,000 per month.

Discussion on privatizing the Port Department ensued, however, Manager Haen indicated that Wisconsin does not permit for a port to become a port authority which allows the ability to bond. The Port being linked to the County provides bonding options.

Manager Haen explained the four Port accounts; 1) 217 Agreement, 2) Harbor Fee, 3) Harbor Dredging, and 4) Port. The "Port" account is the only account linked directly to Solid Waste. Payment for Port expenditures was being made from the Port account without the subsequent transfer of funds from one of the other accounts.

The Commission indicated it would like additional time to look into and discuss these issues further and also allow feedback and input from Commissioner Dickman. Neil McKloskey, Hank Wallace and Craig Dickman (by proxy)

volunteered to be on a subcommittee to 1) gather more information on the formula used for chargebacks (departmental & interdepartmental), 2) research feasibility of separating the Port from the Solid Waste Department and/or 3) separating from the County entirely and privatizing, 4) how funds are transferred, 5) year-end procedure for closing the books, 6) confirmation that all Port assets have been accounted for, and 7) the Port's liability for repayment after eight years. At this time the Commission recommended keeping this internal and discussing possible options with Executive Tom Hinz and Brown County Corporation Counsel.

Staff noted that Port & Solid Waste is one of only a few departments within the County that has two departments combined. Staff agreed that the Port should have their own balance sheet in order to see their cash, payables, assets, etc. Prior to 1999, the Port and Solid Waste were in fact two individual departments but both were still part of the County.

The Commission requested this portion of the meeting be recorded and forwarded to them by the end of next week for their review.

**A motion to set aside the 217 Budget Transfer and appoint a subcommittee to delve into these issues further was made by Ron Antonneau and seconded by Neil McKloskey. Unanimously approved.**

8. Great Lakes Restoration Initiative – Update

Two pre-proposals on a Great Lakes Restoration Grant were distributed to the Commission. The proposals, due on November 25, were submitted on November 19. Brown County is requesting the full amount, however, the U.S. Army Corps of Engineers (USACE) has informed Manager Haen they have received \$9M from the Environmental Protection Agency (EPA) for the construction of Cat Island. The grant is still being submitted however, since the \$9M has not been formally announced by the USACE. This grant is similar to the NOAA grant submitted in spring 2009.

The other pre-proposal is for environmental capping of Renard Island. If awarded the \$3.7M for capping, this would keep the Port's dredging dollars in tact. This project meets many of the Great Lakes Restoration Initiative's requirements and staff is optimistic. Advance approval from Finance will be requested in order to apply for these funds should they be awarded.

9. Director's Report

- *Harbor Assistance Grant – Cat Island*

The Harbor Assistance Grant for Cat Island has passed the cost benefit analysis. The seven grant applications are going to the advisory council for award. Further information should be available by the next meeting.

- *Ballast Water Regulations*

The State has released their ballast water regulations which are said to be favorable and that the WDNR has done well balancing the industry's needs. A copy of the regulations will be brought to the next meeting.

- *BayPort Beneficial Reuse*

Manager Haen met with the Wisconsin Department of Transportation (WDOT) Hwy 41 district director, coordinator, planner, and soil engineer and they are enthusiastic about the possibility of using dredge material to build the 43/41 interchange. Over 1.5M cy of material is needed to make the necessary grade at the interchange. Haen met with the WDNR as well as members of the Fox River Clean-up Project, who initially indicated they would have sand to use for the Hwy 41 project. Subsequently much of the groundwork for meeting state requirements has been done which has allowed Brown County to approach the WDNR for approval to beneficially reuse dredge material from the BayPort facility. Working together with the WDNR and WDOT to reuse this dredge material is good government as it is a win/win situation for everyone. Brown County has contacted Foth to prepare a proposal for a cost estimate for the beneficial reuse of the BayPort dredge material on the Hwy 41 project. This proposal will be brought to the Commission for review next month. Staff believes if all approvals are done prior to the WDOT laying out their bids, it will allow the WDOT to specifically require the contractor use this material.

- *Noble Petro*

The assignment for Noble Petro was approved by the Harbor Commission, the Planning, Development & Transportation Committee, and the Brown County Board. Noble Petro is now a Port customer.

10. Audit of Bills – Request for Approval

**A motion to approve the bills was made by Bill Martens and seconded by Ron Antonneau. Unanimously approved.**

11. Tonnage Report

In July staff reported tonnage was down 40%, however tonnage is currently down only 13% as November has been extremely busy. Staff expects that gap to close even further by year end and is a very positive sign for the Port.

5. Navigational Dredging Concerns Related to Fox River Clean-up Project – Update

As indicated in previous meetings, a letter was sent to the WDNR and EPA outlining Brown County's concerns related to the Fox River Clean-up Project. A response was received and a meeting was set up in Madison in early November. The short term issues (i.e., not being able to dredge in the East River and Georgia Pacific turning basins) progressed nicely with Georgia Pacific offering to pay up to \$20,000 for additional sampling for PCB's as requested by the WDNR and EPA. Haen noted the sampling has been done and the results should be available in early December. If the PCB concentrations come back  $\leq 1$  ppm, we will have unrestricted dredging. If the results indicate 1 to 2 ppm, an environmental clam shell will be required. If the PCB concentration is  $\geq 2$  ppm, a clam shell and silt curtain will be required, however the USACE has indicated they will not use a silt curtain. Staff feels confident the samples will come back less than 2ppm and we should be able to get next year's dredging completed. Currently there is over 10' of shoaling in the East River turning basin that must be dredged in order for ships to turn.

No progress was made on the larger issue of the proposed cap on one mile of the river which would limit the growth and expansion capabilities of five of our terminal operators. The WDNR and EPA indicated they are not changing the record of decision and the cap will be going in at its elevation. Manager Haen is currently in the process of working with the businesses affected by the proposed cap (C. Reiss Coal, CRM, LaFarge, GP and Leichts) to determine their interest in pursuing this matter further. If enough interest is shown, staff will hire Michael, Best & Friedrich to legally request amending the Record of Decision and having the cap set 2' lower which would bring the river to the seaway depth of 26' (based off low water datum). The additional cost to lower the cap by 2' would be estimated at approximately \$10M.

Although all of Brown County's legislators were copied on the letter to the WDNR and EPA, only Congressman Kagen has responded. Kagen indicated he would fully back the Port of Green Bay if they decide to pursue this further.

12. Such Other Matters as are Authorized by Law

The Commission requested the next Harbor Commission meeting be scheduled for December 14, 2009 at 12:45pm.

13. Adjourn

**A motion to adjourn was made by John Hanitz and seconded by Ron Antonneau.** Unanimously approved. Meeting adjourned at 1:30pm.

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Neil McKloskey, President  
Harbor Commission

Charles Larscheid, Director  
Port & Solid Waste Department